

95TH CONGRESS
1ST SESSION

H. R. 7738

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1977

Mr. BINGHAM (for himself, Mr. WHALEN, Mr. IRELAND, and Mr. CAVANAUGH)
introduced the following bill; which was referred to the Committee on
International Relations

A BILL

With respect to the powers of the President in time of war or
national emergency.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—AMENDMENTS TO THE TRADING

4 WITH THE ENEMY ACT

5 REMOVAL OF NATIONAL EMERGENCY POWERS UNDER THE

6 TRADING WITH THE ENEMY ACT

7 SEC. 101. (a) Section 5 (b) (1) of the Trading With
8 the Enemy Act is amended by striking out “or during any
9 other period of national emergency declared by the Presi-
10 dent” in the text preceding subparagraph (A).

1 (b) Notwithstanding the amendment made by subsec-
2 tion (a), the authorities conferred upon the President by
3 section 5 (b) of the Trading with the Enemy Act, which
4 were being exercised with respect to a country on June 1,
5 1977, as a result of a national emergency declared by the
6 President before such date, may continue to be exercised
7 with respect to such country, except that, unless extended,
8 the exercise of such authorities shall terminate (subject to
9 the savings provisions of the second sentence of section 101
10 (a) of the National Emergencies Act) at the end of the two-
11 year period beginning on the date of enactment of the Na-
12 tional Emergencies Act. The President may extend the exer-
13 cise of such authorities for one-year periods upon a determi-
14 nation for each such extension that the exercise of such
15 authorities with respect to such country for another year
16 is in the national interest of the United States.

17 (c) Paragraph (1) of section 502(a) of the National
18 Emergencies Act is repealed.

19 WARTIME AUTHORITIES

20 SEC. 102. Section 5 (b) (1) of the Trading With the
21 Enemy Act is amended—

22 (1) in the text preceding subparagraph (A), by
23 striking out “or otherwise,” the first time it appears;
24 and

25 (2) by striking out “; and the President may, in

1 the manner hereinabove provided, take other or further
2 measures not inconsistent herewith for the enforcement
3 of this subdivision”.

4 CRIMINAL PENALTIES

5 SEC. 103. (a) Section 16 of the Trading With the
6 Enemy Act is amended by striking out “\$10,000” and insert-
7 ing in lieu thereof “\$50,000”.

8 (b) Section 5 (b) (3) of such Act is amended by strik-
9 ing out the second sentence.

10 TITLE II—INTERNATIONAL EMERGENCY

11 ECONOMIC POWERS

12 SHORT TITLE

13 SEC. 201. This title may be cited as the “International
14 Emergency Economic Powers Act”.

15 SITUATIONS IN WHICH AUTHORITIES MAY BE EXERCISED

16 SEC. 202. (a) Any authority granted to the President
17 by section 203 may be exercised to deal with any unusual
18 and extraordinary threat, which has its source in whole or
19 substantial part outside the United States, to the national
20 security, foreign policy, or economy of the United States,
21 if the President declares a national emergency with respect
22 to such threat.

23 (b) The authorities granted to the President by section
24 203 may only be exercised to deal with an unusual and ex-
25 traordinary threat with respect to which a national emergency

1 has been declared for purposes of this title and may not be
2 exercised for any other purpose. Any exercise of such authori-
3 ties to deal with any new threat shall be based on a new
4 declaration of national emergency which must be with respect
5 to such threat.

6 GRANT OF AUTHORITIES

7 SEC. 203. (a) (1) At the times and to the extent speci-
8 fied in section 202, the President may, under such regulations
9 as he may prescribe, by means of instructions, licenses, or
10 otherwise—

11 (A) investigate, regulate, or prohibit—

12 (i) any transactions in foreign exchange,

13 (ii) transfers of credit or payments between,
14 by, through, or to any banking institution, to the
15 extent that such transfers or payments involve any
16 interest of any foreign country or a national thereof.

17 (iii) the importing or exporting of currency
18 or securities; and

19 (B) investigate, regulate, direct and compel, nul-
20 lify, void, prevent or prohibit, any acquisition, holding,
21 withholding, use, transfer, withdrawal, transportation,
22 importation or exportation of, or dealing in, or exercis-
23 ing any right, power, or privilege with respect to, or
24 transactions involving, any property in which any for-
25 eign country or a national thereof has any interest;

1 by any person, or with respect to any property, subject to
2 the jurisdiction of the United States.

3 (2) In exercising the authorities granted by paragraph
4 (1), the President may require any person to keep a full
5 record of, and to furnish under oath, in the form of reports or
6 otherwise, complete information relative to any act or trans-
7 action referred to in paragraph (1) either before, during,
8 or after the completion thereof, or relative to any interest
9 in foreign property, or relative to any property in which any
10 foreign country or any national thereof has or has had any
11 interest, or as may be otherwise necessary to enforce the
12 provisions of such paragraph. In any case in which a report
13 by a person could be required under this paragraph, the
14 President may require the production of any books of account,
15 records, contracts, letters, memoranda, or other papers, in
16 the custody or control of such person.

17 (3) Compliance with any regulation, instruction, or
18 direction issued under this title shall to the extent thereof
19 be a full acquittance and discharge for all purposes of the
20 obligation of the person making the same. No person shall
21 be held liable in any court for or with respect to anything
22 done or omitted in good faith in connection with the ad-
23 ministration of, or pursuant to and in reliance on, this title,
24 or any regulation, instruction, or direction issued under this
25 title.

1 (b) The authority granted to the President by this
2 section does not include the authority to regulate or prohibit,
3 directly or indirectly—

4 (1) any postal, telegraphic, telephonic, or other
5 personal communication, which does not involve a trans-
6 fer of anything of value;

7 (2) the collection and dissemination of news by
8 the news media; or

9 (3) uncompensated transfers of anything of value
10 except to the extent that the President determines that
11 such transfers (A) would seriously impair his ability to
12 deal with the unusual and extraordinary threat which is
13 the basis for the exercise of authorities under this title,
14 (B) are in response to coercion against the proposed
15 recipient or donor, or (C) would endanger Armed
16 Forces of the United States which are engaged in
17 hostilities or are in a situation where imminent involve-
18 ment in hostilities is clearly indicated by the circum-
19 stances.

20 CONSULTATION AND REPORTS

21 SEC. 204. (a) The President, in every possible instance,
22 shall consult with the Congress before exercising any of the
23 authorities granted by this title and shall consult regularly
24 with the Congress so long as such authorities are exercised.

1 (b) Whenever the President exercises any of the au-
2 thorities granted by this title, he shall immediately transmit
3 to the Congress a report specifying—

4 (1) the circumstances which necessitate such ex-
5 ercise of authority;

6 (2) why the President believes those circumstances
7 constitute an unusual and extraordinary threat, which
8 has its source in whole or substantial part outside the
9 United States, to the national security, foreign policy,
10 or economy of the United States;

11 (3) the authorities to be exercised and the actions
12 to be taken in the exercise of those authorities to deal
13 with those circumstances;

14 (4) why the President believes such actions are
15 necessary to deal with those circumstances; and

16 (5) any foreign countries with respect to which
17 such actions are to be taken and why such actions are
18 to be taken with respect to those countries.

19 (c) At least once during each succeeding six-month
20 period after transmitting a report pursuant to subsection (b)
21 with respect to an exercise of authorities under this title, the
22 President shall report to the Congress with respect to the
23 actions taken, since the last such report, in the exercise of
24 such authorities, and with respect to any changes which

1 have occurred concerning any information previously fur-
2 nished pursuant to paragraphs (1) through (5) of sub-
3 section (b).

4 (d) The requirements of this section are supplemental
5 to those contained in title IV of the National Emergencies
6 Act.

7 AUTHORITY TO ISSUE REGULATIONS

8 SEC. 205. The President may issue such regulations,
9 including regulations prescribing definitions, as may be neces-
10 sary for the exercise of the authorities granted by this title.

11 CONGRESSIONAL REVIEW OF REGULATIONS

12 SEC. 206. (a) Any regulation issued under this title
13 (including any modification of a previously issued regula-
14 tion) shall be reported to the Congress not later than the
15 date on which it becomes effective.

16 (b) (1) If, within the period described in paragraph
17 (2), the Congress adopts a concurrent resolution disapprov-
18 ing, in whole or in part, a regulation reported pursuant to
19 subsection (a), then such regulation shall immediately cease
20 to be effective to the extent it is disapproved.

21 (2) The period referred to in paragraph (1) is the
22 thirty-day period (excluding any day on which either House
23 of Congress is not in session) beginning on the date on which
24 the regulation is reported to the Congress pursuant to sub-
25 section (a).

1 (c) Disapproval of a regulation by the Congress under
2 subsection (b) shall not affect the validity of such regulation
3 (or any action taken under such regulation) during the
4 period it was in effect.

5 PENALTIES

6 SEC. 207. (a) A civil penalty of not to exceed \$10,000
7 may be imposed on any person who violates any license,
8 order, or regulation issued under this title.

9 (b) Whoever willfully violates any license, order, or
10 regulation issued under this title shall, upon conviction, be
11 fined not more than \$50,000, or, if a natural person, may
12 be imprisoned for not more than ten years, or both; and any
13 officer, director, or agent of any corporation who knowingly
14 participates in such violation may be punished by a like
15 fine, imprisonment, or both.

16 SAVINGS PROVISION

17 SEC. 208. (a) (1) Except as provided in subsection
18 (b), notwithstanding the termination pursuant to the Na-
19 tional Emergencies Act of a national emergency declared
20 for purposes of this title, any authorities granted by this
21 title, which are exercised on the date of such termination on
22 the basis of such national emergency to prohibit transactions
23 involving property in which a foreign country or national
24 thereof has any interest, may continue to be so exercised to
25 prohibit transactions involving that property if the President

1 determines that the continuation of such prohibition with
2 respect to that property is necessary on account of claims
3 involving such country or its nationals.

4 (2) Notwithstanding the termination of the authorities
5 described in section 101 (b) of this Act, any such authorities,
6 which are exercised with respect to a country on the date of
7 such termination to prohibit transactions involving any prop-
8 erty in which such country or any national thereof has any
9 interest, may continue to be exercised to prohibit transactions
10 involving that property if the President determines that the
11 continuation of such prohibition with respect to that property
12 is necessary on account of claims involving such country
13 or its nationals.

14 (b) The authorities described in subsection (a) (1)
15 may not continue to be exercised under this section if the
16 national emergency is terminated by the Congress by con-
17 current resolution pursuant to section 202 of the National
18 Emergencies Act and if the Congress specifies in such
19 concurrent resolution that such authorities may not continue
20 to be exercised under this section.

21 (c) (1) The provisions of this section are supplemental
22 to the savings provisions of paragraphs (1), (2), and (3)
23 of section 101 (a) and of paragraphs (A), (B), and (C) of
24 section 202 (a) of the National Emergencies Act.

1 (2) The provisions of this section supersede the ter-
2 mination provisions of section 101 (a) and of title II of the
3 National Emergencies Act to the extent that the provisions
4 of this section are inconsistent with these provisions.

5 (d) If the President uses the authority of this section to
6 continue prohibitions on transactions involving foreign prop-
7 erty interests, he shall report to the Congress every six
8 months on the use of such authority.

9 **TITLE III—AMENDMENTS TO THE EXPORT**
10 **ADMINISTRATION ACT OF 1969**

11 **AUTHORITY TO REGULATE EXTRATERRITORIAL EXPORTS**

12 SEC. 301. (a) The first sentence of section 4 (b) (1) of
13 the Export Administration Act of 1969 is amended to read
14 as follows: "To effectuate the policies set forth in section 3
15 of this Act, the President may prohibit or curtail the ex-
16 portation, except under such rules and regulations as he
17 shall prescribe, of any articles, materials, or supplies, includ-
18 ing technical data or any other information, subject to the
19 jurisdiction of the United States or exported by any person
20 subject to the jurisdiction of the United States."

21 (b) (1) Section 4 (b) (2) (B) of such Act is
22 amended—

23 (A) in the first sentence, by striking out "from the
24 United States, its territories and possessions,"; and

1 (B) in the second sentence—

2 (i) by striking out “from the United States”;

3 and

4 (ii) by striking out “produced in the United

5 States” and inserting in lieu thereof “which would

6 be subject to such controls”.

7 (2) Section 6 (c) (2) (A) of such Act is amended by

8 striking out “from the United States, its territories or pos-

9 sessions,”.

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